THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.19932 OF 2005

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Dt: 12.09.2005

Between:

Sri Venkata Ramana Stone Crushers,

Rep., by its Managing Partner

G. Prabhakar Rao.

.. Petitioner

AND

The A.P. State Financial Corporation,

Rep., by its Managing Director,

Hyderabad & another.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19932 OF 2005

ORDER:

The petitioner challenges the notice, dated 16.08.2005, through which the respondents have intimated that the petitioner has to clear the dues of Rs.63,49,238/- outstanding as on the date of notice, failing which, the procedure under Section 29 of the State Finance Corporations Act shall be invoked.

The petitioner availed the financial assistance from the respondents to the tune of Rs.34,00,000/- in the year 2000. A sum of Rs.13,00,000/- is said to have been paid at various points of time. When steps were initiated against the petitioner by issuing a notice, dated 15.07.2003, proposing to sell the unit, and to have recourse to other steps, the petitioner filed WP.No.16103 of 2003. The writ petition was disposed of through order, dated 25.02.2004, directing that the petitioner shall deposit a sum of Rs.4,00,000/-, within four weeks from the date of that order and on such deposit, the respondents shall consider the case of the petitioner for one time settlement.

The course indicated by this Court in WP.No.16103 of 2003 was not followed by the petitioner. It is represented that a sum of Rs.2,00,000/- was paid at staggered intervals spread over various months. The result is that the respondents did not consider the case of the petitioner for one time settlement and the present demand is made.

Sri Kuriti Bhaskara Rao, learned counsel for the petitioner, submits that though not within four weeks, as stipulated by this Court, the amount of Rs.4,00,000/- was paid to the respondents, and in fact, a decision was taken by the Board of Directors to settle the claim of the petitioner for a sum of Rs.34,00,000/- once for all. He submits that while the petitioner was awaiting the official communication of the decision, the impugned proceedings were initiated.

Sri Y.V. Vivek, learned counsel appearing on behalf of the respondents, on the other hand, submits that the petitioner did not avail the benefit of order passed by this Court in WP.No.16103 of 2003, and the respondents are left with no alternative, except to invoke the procedure under the State Finance Corporations Act to recover the dues.

The petitioner does not dispute its liability towards the respondents. When it approached this Court on an earlier occasion, an order was passed with certain conditions. Admittedly, the petitioner did not avail the benefit of the same. While the petitioner asserts that the Board of Directors has resolved to settle the account of the

petitioner for Rs.34,00,000/-, learned counsel for the respondents strongly disputes it. At any rate, there is nothing on the record to disclose that the liability of the petitioner was slashed down to any extent. Under these circumstances, the respondents have issued the impugned notice.

Learned counsel for the petitioner is not able to point out any legal infirmity or factual inaccuracy in the notice. The question as to whether the respondents have levied any excessive interest, cannot be adjudicated now, by this Court. Such a possibility would have existed, if the petitioner had cleared the undisputed liability and sought for adjudication, as regards, the disputed amount. This Court is not inclined to interfere with the impugned notice.

Learned counsel for the petitioner made repeated appeals that his client is prepared to deposit the amount said to have been fixed as one time settlement. This Court intends to give him a last chance to prove his *bona fides*. In that view of the matter, it is directed that the further steps, in pursuance of the impugned notice, shall be deferred by four weeks. In case, the petitioner deposits a sum of Rs.34,00,000/- up to that date, the sale of the unit shall not be proceeded with and it shall be open to the petitioner to make a representation for the remaining part of the liability.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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12.09.2005

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